BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

ROBIN D. HANEY)
Claimant)
VS.)
VO.)
JEFF CHANEY)
Uninsured Respondent) Docket No. 1,027,112
AND))
)
WORKERS COMPENSATION FUND)

ORDER FOR CONTINUANCE

Claimant, respondent and Workers Compensation Fund requested review of the January 23, 2009 Award by Administrative Law Judge Thomas Klein. The Board scheduled oral argument for May 15, 2009, but on that date argument was limited to respondent's request for a continuance.

APPEARANCES

William L. Phalen of Pittsburg, Kansas, appeared for the claimant. Jeff Chaney, respondent, appeared pro se. David J. Bideau of Chanute, Kansas, appeared for the Workers Compensation Fund (Fund).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the stipulations of the parties, and having considered the parties' briefs and oral arguments, the Board makes the following findings of fact and conclusions of law:

After the ALJ's Award was entered on this claim, respondent's counsel, Ronald J. Laskowski, filed a motion to withdraw on April 30, 2009 which was granted by Administrative Law Judge (ALJ) Thomas Klein in an Order to Withdraw dated May 5, 2009. There is no record of any notice of hearing or hearing being held on the motion. The oral argument before the Board was scheduled for hearing on May 15, 2009.

At oral argument before the Board on May 15, 2009, Jeff Chaney appeared pro se and requested a continuance in order to retain counsel to represent him. The parties all agreed they had not received a notice setting Mr. Laskowski's motion to withdraw for

IT IS SO ORDERED.

hearing. The parties further agreed they did not participate in the alleged hearing on the motion.

It is distressing that an ALJ would enter an order allowing an attorney to withdraw 10 days before a pending scheduled hearing and that the order would be signed absent notice and a hearing to determine whether the client's interests would be protected, especially with no new attorney entering an appearance for that party and with additional proceedings so imminent.

As noted, Mr. Chaney requested a continuance to obtain representation. Mr. Phalen and Mr. Bideau agreed that a continuance was appropriate. Consequently, the Board will afford Mr. Chaney a reasonable time to obtain counsel. The hearing on the parties request for review of the January 23, 2009 Award by ALJ Klein will be rescheduled for 11 a.m., July 8, 2009.

AWARD

WHEREFORE, it is the decision of the Board that respondent's request for a continuance is granted and the parties request for review of the Award of Administrative Law Judge Thomas Klein dated January 23, 2009, is continued to 11 a.m. July 8, 2009.

Dated this _____ day of May 2009. BOARD MEMBER BOARD MEMBER

c: William L. Phalen, Attorney for Claimant
Jeff Chaney, Respondent, PO Box 7, Welch, OK 74369
David J. Bideau, Attorney for Fund
Ronald J. Laskowski, Attorney
Thomas Klein, Administrative Law Judge